

**DOCKET FOR REGULAR COUNCIL MEETING OF
TUESDAY, MAY 22, 2001 AT 10:00 A.M.
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COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

NOTE: The Consent Agenda will be listed on the Tuesday docket, instead of on the Monday docket.

CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). In addition, other items thought to be routine or non-controversial and without any "Request to Speak" slips in opposition may be taken as part of the Consent Agenda.

PLEASE NOTE: ITEMS LISTED ON TODAY'S CONSENT AGENDA (ITEMS 100 - 112) THAT ARE PULLED BY THE COUNCIL OR MEMBER OF THE PUBLIC FOR DISCUSSION WILL BE TRAILED AND DISCUSSED AFTER ITEMS ON THE ADOPTION AGENDA (ITEMS 150 - 331).

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, and 112.

ADOPTION AGENDA, CONSENT ITEMS RESOLUTIONS:

* ITEM-100: Three actions related to the Final Subdivision Map of California Terraces Unit No. 7A.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2001-1496)

Authorizing a Subdivision Improvement Agreement with Pardee Construction Company for the installation and completion of public improvements.

Subitem-B: (R-2001-1495)

Approving the final map.

Subitem-C: (R-2001-1497)

Accepting a grant deed of Pardee Construction dated September 8, 2000, granting to the City Lots "A" and "B" of California Terraces Unit No. 7A for open space purposes.

CITY MANAGER SUPPORTING INFORMATION:

This map proposes the subdivision of a 32.904 acre site into 129 lots for residential development plus Lots "A" through "L". It is located northeasterly of I-805 and SR-905, on the east side of Ocean View Hills Parkway in the Otay Mesa Community Plan area. On April 12, 1994 the Council of the City of San Diego approved City Council Resolution No. R-283694 for California Terraces. The City Engineer has approved the final map and states that all conditions of the Tentative Map have been satisfied.

The public improvements required for this subdivision are shown in detail on Drawing Number 30403-1-D, 30403-16-D, filed in the Office of the City Clerk under Micro Number 140.86. All improvements are to be completed within two years. The Engineer's estimate for the cost of public improvements is \$3,618,095 and a Performance Bond in that amount has been provided as surety. A cash bond in the amount of \$22,308, as determined by the surveyor's estimate, has been posted as surety for the setting of survey monuments.

Subdivider, by letter, has given assurance to the City of San Diego that he subscribes to the Affirmative Marketing Program as shown in the "Memorandum of Understanding between the San Diego Building Industry Association and U.S. Department of Housing and Urban Development".

Lots "A" & "B" are being deeded to the City at no cost. The lots total 4.805 acres in size. No park fee credit is being granted by this action. The lots are to be used for open space purposes. This subdivision is located in the Otay Mesa Facilities Financing Plan area, which provides for the payment of a Facilities Benefits Assessment (FBA), including parks, at the time of building permit issuance.

This community may be subject to impact fees, as established by the City Council, at the time of building permit issuance. This is part of a larger project. This portion of the project with 121 single family lots is estimated to generate 1,210 average daily trips (ADT). 1,090 of these trips are estimated to occur on two segments of the nearby Interstate 805, which has an estimated near term plus project volume of 101,610 on one segment and 131,480 on another segment. The total estimated impact fee payment for the portion of California Terraces north of future SR-905 is \$19,466,778 under FY 2001 rates. A portion of these fees will go toward the construction of Ocean View Parkway and improvements at Palm Avenue/I-805 interchange per the Otay Mesa Public Facility Financing Plan.

FISCAL IMPACT:

None.

Loveland/Haase/GB

ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:

* ITEM-101: Two actions related to the Final Subdivision Map of CityMark El Cortez, LLC.

(Centre City Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2001-1510)

Authorizing the City Manager to execute a Subdivision Improvement Agreement with CityMark El Cortez, LLC, for the installation and completion of certain public improvements.

Subitem-B: (R-2001-1509 Cor. Copy)

Approving the final map.

CITY MANAGER SUPPORTING INFORMATION:

This map proposes the subdivision of a 0.464 acre site into 8 lots for residential condominium development. It is located on the westerly side of 10th Avenue north of Beech Street in the Centre City Planned District Area. On September 14, 2000 the Planning Commission of the City of San Diego approved Tentative Map TM-40-0285 by Planning Commission Resolution No. 3008-PC. The City Engineer has approved the final map and states that all conditions of the Tentative Map have been satisfied. The public improvements required for this subdivision are shown in detail on Engineering Drawing No. 30767-1-D through 30767-3-D, filed in the office of the City Clerk under Micro No. 140.91. The public improvements are to be completed within two years.

The engineer's estimate for the cost of public improvements is \$44,197, and a Performance Bond in that amount has been provided as surety. A cash bond in the amount of \$1,400, as determined by the surveyor's estimate, has been posted as surety for the setting of survey monuments. Park fees in the amount of \$766 have been paid. This project is in Park Service District No. 11.580. This project is estimated to generate 64 average daily trips (ADT). Twenty of these trips are estimated to occur on the nearby Interstate 5, which has an estimated near term plus project volume of 191,020. There are no improvements planned by CalTrans on Interstate 5 in the vicinity of this project.

FISCAL IMPACT:

None.

Loveland/Haase/GB

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-102: Two actions related to the Final Map of Torrey Hills Unit No. 8A.

(Sorrento Hills Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2001-1435)

Authorizing the City Manager to execute a Subdivision Improvement Agreement with TopMark Homes, LLC for the installation and completion of certain public improvements.

Subitem-B: (R-2001-1434)

Approving the final map.

CITY MANAGER SUPPORTING INFORMATION:

This map proposes the subdivision of a 5.216 acre site into 18 lots for residential development and Lot "A" for building restricted easement purposes. This project is located at the southerly terminus of Sand Crab Place in the Sorrento Hills Community Plan Area. On March 17, 1997 the City Council of the City of San Diego approved Vesting Tentative Map VTM-95-0554 per Resolution No. R-288438 for Torrey Hills. The City Engineer has approved the final- map and states that all conditions of the Tentative Map have been satisfied. The public improvements required for this subdivision are shown in detail on Engineering Drawing Nos. 29373-1-D through 29373-2-D and 30136-1-D through 30136-8-D filed in the Office of the City Clerk under Micro Nos. 140.92 and 140.93 respectively. All improvements are to be completed within two years. The Engineer's estimates for the cost of public improvements and landscaping are \$208,956 and \$475, and Performance Bonds in those amounts have been provided as surety.

A cash bond in the amount of \$5,000 has been posted as surety for the setting of survey monuments. This subdivision is in a community plan area designated in the General Plan as Planned Urbanizing. As such, special financing plans have been established to finance the public facilities required for the community plan area. Therefore, in connection with Council approval of this final map, the subdivider shall comply with the provisions of the financing plan through satisfaction of the terms of the Sorrento Hills Development Agreement.

The proposed Torrey Hills Unit No. 8A subdivision is estimated to generate approximately 180 daily trips (ADT). 50 of these trips are estimated to occur on Interstate 5 south of Carmel Valley Road, which has an estimated near-term volume of 253,250 ADT. CalTrans is planning to widen Interstate 5 to provide ten additional lanes south of Carmel Valley Road by year 2004.

FISCAL IMPACT: None.

Loveland/Haase/GB

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

* ITEM-103: Water Easement Abandonment in Parcels 1 and 2 of Parcel Map PM-18425.

(Peninsula Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1443)

Vacating the water easement in Parcels 1 and 2 of Parcel Map PM-18425 described in the legal description marked Exhibit "A", and shown on Drawing No. 19287-B marked Exhibit "B".

CITY MANAGER SUPPORTING INFORMATION:

This site is located on the south side of Lomaland Drive westerly of Tarento Drive. Council is requested to approve the abandonment of a water easement granted over Parcels 1 and 2 of Parcel Map PM-18425 as shown on Engineering Drawing 19287-B. This easement is being abandoned in order to efficiently utilize the property for a proposed structure. The easement was acquired at no cost to the City and has never been used for the purpose for which it was granted. A water easement of approximately equal value as shown on Engineering Drawing No. 19286-B has been acquired by separate instrument. There is no present or anticipated future use for the easement in its current configuration.

Staff recommends approval of the abandonment.

FISCAL IMPACT:

None.

Loveland/Haase/GB

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

* ITEM-104: Slope Easement Abandonment.

(Pacific Beach Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1418)

Vacating the slope easement located in Lots 53 through 58, Block 7 of Floral Terrace, Map 1635.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a slope easement in Lots 53 through 58 in Block 7 of Floral Terrace Subdivision Map 1635, which is located in the Pacific Beach Community area within Council District 6. The easement was granted to the City in 1961 for earth excavation and embankment for road purposes. The street has been constructed and the slope easement is no longer necessary. The easement to be abandoned was acquired at no cost to the City. City staff recommends approval of the easement abandonment.

Loveland/Haase/AA

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-105: Vacation of "A" Street.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1433)

Vacating a portion of "A" Street between Pacific Highway and California Street, as described in the legal description marked "Exhibit "A", and shown on Drawing No. 19371-B marked Exhibit "B".

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a portion of "A" Street between Pacific Highway and California Street in the Centre City Community area within Council District 2. The street vacation is being requested to develop the property north and south of "A" street as proposed in the development agreement recorded July 19, 1993 Doc#1993-0459374, between the City and Catellus Development. The City will reserve a general utility easement over the area to be vacated. The area of the street to be vacated was acquired at no cost to the City. City staff recommends approval of the street vacation.

FINDINGS: Staff review has indicated that the right-of-way to be vacated may be summarily vacated and that the four required findings for vacation can be made. These findings are:

- a) That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated - it is unlikely that a street would be constructed at this location.
- b) That the public will benefit from the action through improved utilization of land made possible by the street vacation - the area will be developed and will lead to higher property tax revenues.
- c) That the vacation is not inconsistent with the General Plan, an approved Community Plan, or Local Coastal Program - Centre City Development Corporation supports the street vacation.
- d) That the facility for which the right-of-way as originally acquired will not be detrimentally affected by the street vacation - there are no present or future plans to construct a street in this area.

FISCAL IMPACT:

None. All costs have been paid by the applicant.

Loveland/Haase/AA

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-106: Rancho Bernardo Community Park Sports Field Lighting.

(Rancho Bernardo Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1416 Cor. Copy)

Authorizing the City Manager to accept the donation of \$80,000 from the Rancho Bernardo Recreation Council;

Authorizing the transfer of the \$80,000 donation from Fund No. 63022, to Rancho Bernardo Community Park Sports Field Lighting CIP-29-476.0;

Authorizing the transfer of \$200,000 from State of California Bond Fund 38108, to Rancho Bernardo Community Park Sports Field Lighting CIP-29-476.0;

Authorizing the increase of \$280,000 to the FY 2001 Capital Improvements Program budget for CIP-29-476.0;

Authorizing the expenditure of \$280,000 from CIP-29-476.0, Rancho Bernardo Community Sports Lighting, for the purpose of designing, purchasing lighting material, and constructing sports lighting systems on existing athletic fields at Rancho Bernardo Community Park.

CITY MANAGER SUPPORTING INFORMATION:

The Rancho Bernardo Community Park supports eight athletic fields for baseball, soccer, and multipurpose sports. Council Resolution R-291015 authorized \$187,000 via CIP-29-476.0 for new Rancho Bernardo Park sports lighting. The Rancho Bernardo Recreation Council prioritized the funding for lighting fields 3, 4, and 5 and electrical infrastructure for future lighting projects.

AT&T recently completed construction of field No. 5 lighting and the electrical lighting infrastructure through and by means of a Cellular Antenna Lease Agreement with the Real Estates Assets Department. The lighting at fields 3 and 4 was recently completed via CIP-29-476.0. This action will authorize funding for new sports lighting at unlit fields and retrofit field No. 1 lighting as deemed appropriate by the Rancho Bernardo Recreation Council.

FISCAL IMPACT:

The estimated total project cost is \$467,000. Funds are available in the amount of \$187,000 from Special Park Fee Fund No. 39086; \$200,000 in State Bond Fund No. 38108, Dept. No. 38108; and \$80,000 donated by Rancho Bernardo Recreation Council, Fund No. 63022, Revenue Accounts No. 78901.

Loveland/Belock/AO

Aud. Cert. 2101093.

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

* ITEM-107: Transfer of Funds - Encanto Community Park General Development Plan Revision.

(Encanto Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1534)

Authorizing the City Auditor and Comptroller to appropriate and expend \$73,875 from State Park Trailer Bill Funds (Fund No. 38077) to CIP-29-489.0, Encanto

Community Park-General Development Plan Revision.

CITY MANAGER SUPPORTING INFORMATION:

The existing Encanto Community Park is located at 6508 Wunderlin Avenue in the Encanto area of San Diego. This project provides for hiring a consultant to prepare an update to the existing General Development Plan to include the .77 acre of undeveloped park property south of Wunderlin Avenue. The existing use of developed park property will also be evaluated and recommendations may be incorporated according to community needs. The revised General Development will follow the Park and Recreation Board approval process, which provides for community input. An approved revised General Development Plan will also assist the City in identifying projects for acquiring local, state, and federal monies for the park's improvement.

FISCAL IMPACT:

Grant funds in the amount of \$73,875 are available from State Park Trailer Bill Funds, Fund No. 38077, for this purpose.

Loveland/McLatchy/DVW

Aud. Cert. 2101121.

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

* ITEM-108: Contribution Agreement for Improvements at Normal Heights / Kensington Community Park.

(Mid City-Normal Heights Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1507)

Authorizing the City Manager to execute an agreement with CalTrans for the design and construction of park improvements for the Normal Heights/Kensington Community Park;

Authorizing the City Auditor and Comptroller to appropriate and expend \$415,000 from Highway Mitigation/Fiscal Year 2000 State Park Trailer Bill Funds (Fund No. 38097) available from CIP-29-702.0, Normal Heights/Kensington Community Park to CalTrans.

CITY MANAGER SUPPORTING INFORMATION:

Normal Heights / Kensington Community Park is located on Adams Avenue between 39th Street and 40th Street in the Mid-City area of San Diego. This project is required to mitigate the adverse impacts resulting from the construction of the I-15 freeway through Mid-City. As outlined in the approved Memorandum of Understanding (MOU) between CalTrans and the City, CalTrans is obligated to design, construct and fund all of the basic park improvements, totaling approximately \$1,725,000. Basic park improvements include construction of a basketball court, sidewalks, plazas, decorative fencing, security lighting, and passive open space picnic areas. The City desires to fund additional park improvements not included in the MOU, such as playground equipment, on-site parking, concrete amphitheater seating, picnic tables, pergola structure and site furniture. This action will authorize the execution of the Contribution Agreement and the expenditure of funds to implement the additional park improvements.

FISCAL IMPACT:

Funds in the amount of \$415,000 are available for this purpose in CIP-29-702.0, Normal Heights / Kensington Community Park (\$415,000 in State Park Trailer Bill Funds).

Annual Maintenance Costs: Following the construction of the park improvements, the City will take over responsibility for the ongoing maintenance. Annual park maintenance costs are estimated to be approximately \$68,645.

Loveland/McLatchy/CD

Aud. Cert. 2101127.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-109: Teralta Park Contract Change Order for Picnic Shelters and Tot Lot Equipment.

(Mid-City/City Heights Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1508)

Authorizing an agreement with CalTrans for the installation of picnic shelters, tot lot equipment, and playground surfacing at Teralta Park;

Authorizing the City Auditor and Comptroller to expend \$307,011.87 from Highway Mitigation/Fiscal Year 2000 State Park Trailer Bill Funds (Fund No. 38097) available from CIP-29-685.0, Teralta Neighborhood Park Development to CalTrans.

CITY MANAGER SUPPORTING INFORMATION:

Teralta Park is located on a bridge structure over the State Route 15 corridor between Orange Avenue and Polk Avenue in the Mid-City area of San Diego. This project is required to mitigate the adverse impacts resulting from the construction of the I-15 freeway through Mid-City. As outlined in the approved Memorandum of Understanding (MOU) between CalTrans and the City, CalTrans is obligated to design, construct and fund all of the basic park improvements. Basic park improvements include construction of a basketball court, sidewalks, plazas, raised planters, security lighting, and passive open space areas. The City desires to fund additional park improvements not included in the MOU, such as playground equipment, playground surfacing and picnic shelters. This action will authorize 1) the execution of an agreement with CalTrans to pay CalTrans the cost of the Contract Change Order required to implement the additional park improvements; and 2) the expenditure of funds in accordance with the agreement.

FISCAL IMPACT:

Funds in the amount of \$307,011.87 are available for this purpose in CIP-29-685.0, Teralta Neighborhood Park I-15 Cut & Cover Park #1 (\$307,011.87 in FY 2000 State Park Trailer Bill Funds).

Annual Maintenance Costs: Following the construction of the park improvements, the City will take over responsibility for the ongoing maintenance. Annual park maintenance costs are estimated to be approximately \$85,337.

Loveland/McLatchy/CD

Aud. Cert. 2101126.

ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:

* ITEM-110: Warehouse Space Lease - 1340 G Street.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1553)

Authorizing the City Manager to execute the Lease Agreement with G Street Venture for a leasehold area of 5,000 square feet at the base rent of \$3,500 per month;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$10,150.09 from the Public Art Fund No. 10271, Dept. 1271, for rent from the FY2000 budget, and from Development Services Fund No. 41300, Dept. 1300 for rent from the FY2001 Budget.

CITY MANAGER SUPPORTING INFORMATION:

The Commission for Arts and Culture and Development Services have been leasing warehouse-storage space at the Naval Training Center (NTC) for the past two years and were recently asked to vacate the premises due to the redevelopment of the NTC. Relocation storage space was found at 1340 G Street.

The above departments are proposing to lease the space under the following basic terms:

TERM - Approximately one (1) year commencing on April 4, 2001. The lease will terminate on April 3, 2002.

RENT - \$0.70 per square foot or \$3,500 per month. The rental rate is below market value as compared to similar space in the downtown area.

OPTION TO EXTEND - The City has the option to extend the lease for one additional year. Rent will be increased by approximately 4.2%.

USE - Storage space.

SIZE - 5,000 square feet.

FISCAL IMPACT:

\$10,150.09 will be paid from Fund No. 10271, Dept. 1271 from the FY2000 budget and from Fund No. 41300, Dept. 1300 for rent from the FY 2001 Budget.

Herring/Griffith/DLM

Aud. Cert. 2101146.

ADOPTION AGENDA, CONSENT ITEMS RESOLUTIONS:

* ITEM-111: Interfaith Shelter Network Day.

COUNCILMEMBER WEAR'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1482)

Proclaiming May 22, 2001 as "Interfaith Shelter Network Day" in San Diego.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-112: Ratify the North Bay Redevelopment Project, Project Area Committee Election of December 19, 2000 and Extend its Existence for One Additional Year, Until May 18, 2002.

(See City Manager Report CMR-01-097. Linda Vista, Clairemont Mesa, Midway/Pacific Highway, Old Town, Uptown, Peninsula, Mission Valley Community Areas. Districts-2 and 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1556)

Ratifying the election results of December 19, 2000, for the North Bay Redevelopment Project, Project Area Committee and extending its existence for one additional year.

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS

**COMMITTEE ON RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS,
ORDINANCES TO BE INTRODUCED:**

ITEM-150: Ethics Commission.

(See City Attorney's 4/20/2001 report and Beryl Flom's 4/25/2001 letter.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2001-129 Cor. Copy)

Introduction of an Ordinance amending Chapter II, Article 6 of the San Diego Municipal Code by adding Division 4, titled "Ethics Commission," and by adding Sections 26.0401 to 26.0415, all relating to the City of San Diego Ethics Commission.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On April 25, 2001, RULES voted 5 to 0 to approve the proposed Ethics Commission Ordinance. (Councilmembers Wear, Atkins, Stevens, Madaffer and Mayor Murphy voted yea.)

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS

COMMITTEE ON PUBLIC SAFETY AND NEIGHBORHOOD SERVICES, RESOLUTIONS:

ITEM-151: Proposition 215 Implementation Task Force (Compassionate Use of Marijuana Act of 1996).

(See PS&NS Committee Consultant's Report and Patients' Demands for Action to Enforce Health and Safety Code 11362.5.)

TODAY'S ACTION IS:

Adoption of the following resolution:

(R-2001-1444)

Forming the Proposition 215 Implementation Task Force to determine the most efficient way to regulate the use of medical marijuana in accordance with Proposition 215, passed by the voters of the State of California in November of 1996. The Task Force shall be comprised of law enforcement professionals, doctors, patients, healthcare industry professionals, public-interest legal advocates and representatives from non-profit organizations providing direct services to cancer, HIV, and other "compassionate use" patients;

Appointing the following persons to the Task Force: Dr. Drew Mattison, Dr. Al Best, Dale Kelly Bankhead, Juliana Humphrey, St. Claire Adams, Steven McWilliams, Dennis Triglia, Ann Shanahan-Walsh, Michael Bartellmo, Larry Chaidez and Jerry Meier;

Assigning staff from the City Manager's Office, City Attorney's Office and the San Diego Police Department to work with the Task Force;

Declaring that the Task Force shall focus its efforts on the following tasks: a) Investigate the existing local Proposition 215 advocacy network, determine whether information is readily available to eligible patient groups, and devise any additional means that may be needed for outreach;

b) Monitor local law enforcement efforts and the activities of the San Diego County District Attorney's Working Group; c) Monitor medical research efforts germane to Proposition 215; and d) Monitor and support legislative efforts at the state level that seek to help local governments in their efforts to respond to Proposition 215;

Declaring that the Task Force shall periodically report to the Public Safety & Neighborhood Services Committee, with respect to all matters within its scope of investigation and monitoring, with the first such report occurring no later than June 20, 2001.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On March 7, 2001, PS&NS voted 4 to 0 to recommend the following: (Councilmembers Atkins, Stevens, Maienschein and Inzunza voted yea.)

- A) Implement the City Council's recommendation of August 15, 2000, by forming a task force comprised of law enforcement professionals, doctors, patients, and health care industry professionals to determine the most efficient way to regulate the use of medical marijuana. Additionally, the composition of the task force should include public-interest legal advocates and nonprofit organizations providing direct services to cancer, HIV, and other "compassionate use" patients.
- B) Direct the task force to focus on the following issues:
 - 1) Investigate the existing local Proposition 215 advocacy network, determine whether information is readily available to eligible patient groups, and devise what additional means may be needed for outreach.
 - 2) Monitor local law enforcement efforts and the activities of the District Attorney's Working Group and report findings to the City Council.
 - 3) Monitor research efforts germane to Proposition 215 and report findings to the City Council.
 - 4) Monitor and support legislative efforts at the State level that seek to help local municipalities in their efforts to respond to Proposition 215.

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS

COMMITTEE ON NATURAL RESOURCES AND CULTURE, RESOLUTIONS:

ITEM-152: Two actions related to Black Mountain Road Pipelines Project (formerly Rancho Bernardo Pipeline #2 and Black Mountain Ranch Reclaimed Water Pipeline).

(See memorandum from Larry Gardner dated 4/2/2001. Mira Mesa and Penasquitos East Community Areas. Districts-1 and 5.)

(Continued from the meeting of May 1, 2001, Item 150, at the request of the City Manager for further review.)

CITY MANAGER'S RECOMMENDATION:

Adoption of the following resolutions:

Subitem-A: (R-2001-1386 Cor. Copy)

Authorizing the City Manager to execute a phase funded agreement for an amount not to exceed \$25,184,184 with Archer Western Contractors Ltd. to provide design/build services for the design and construction of the Black Mountain Road Pipelines;

Authorizing the City Manager to establish contract funding phases for this agreement;

Authorizing the City Auditor and Comptroller to transfer \$345,453 from Water Fund 41500, CIP-70-954.0, Black Mountain Ranch Reclaimed Water Pipeline, to Water

Fund 41500, CIP-73-341.0, Rancho Bernardo Pipeline No. 2;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$19,340,825 from Water Fund 41500, CIP-73-341.0, Rancho Bernardo Pipeline No. 2, and to expend an amount not to exceed \$11,132,064 from Water Fund 41500, CIP-73-954.0, Black Mountain Ranch Reclaimed Water Pipeline, for the design and construction of the Black Mountain Road Pipelines, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$629,604 from Water Fund 41500, CIP-73-331.0, Annual Allocation Pooled Contingency;

Authorizing the City Forces to isolate, make connections, and perform operational checks for a cost of \$432,000 in CIP-73-341.0, Rancho Bernardo Pipeline No. 2, and \$200,000 in CIP-70-954.0, Black Mountain Ranch Reclaimed Water Pipeline (between Carroll Canyon Road and Twin Trails Road);

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

Subitem-B: (R-2001-1387)

Certifying that the information contained in Mitigated Negative Declaration LDR-40-0901 has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and the State guidelines, that the declaration reflects the independent judgement of the City of San Diego as Lead Agency, and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by the Council;

Stating for the record that the final Mitigated Negative Declaration has been reviewed and considered prior to approving the project;

Adopting the Mitigation Monitoring and Reporting Program.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/2/2001, NR&C voted 3 to 1 to approve the City Manager's recommendation with the following direction: a) Give emphasis to a thorough public education program prior to and during construction to include direct mailing to residents in affected communities and send information to community newspapers and b) change the name of the project to accurately reflect location within Rancho Penasquitos. (Councilmembers Peters, Wear and Madaffer voted yea. Councilmember Inzunza voted nay.)

CITY MANAGER SUPPORTING INFORMATION:

The Black Mountain Road Pipelines consist of a potable (drinking) water pipeline (RBPL#2) and a reclaimed water pipeline (BMRRWP). RBPL#2 will be designed and built as a primary transmission facility, paralleling the existing Rancho Bernardo Pipeline No. 1, to convey additional locally treated potable water from the Miramar Water Treatment Plant to the northern region of the City, mainly the communities of Rancho Bernardo, Rancho Penasquitos and Del Mar to meet the current and the future demands. The main alignment of RBPL#2 will consist of approximately 31,500 linear feet of 42- and 48-inch pipe along Scripps Ranch Blvd., Mira Mesa Blvd., Westview Pkwy., Black Mountain Rd., Twin Trails Dr. and Carmel Mountain Rd. BMRRWP will convey reclaimed water treated at the North City Water Reclamation Plant to the northern portions of the City mainly to supply Black Mountain Ranch, North Region golf courses and parks and ultimately connecting to Olivenhain Municipal Water District. BMRRWP will consist of approximately 20,560 linear feet of 36-inch and 24-inch pipe along Black Mountain Rd., Mira Mesa Blvd., and Westview Pkwy. To expedite this project and implement it cost effectively with minimal impact to the community, a Design/Build delivery method was adopted wherein both pipelines are to be designed and constructed concurrently mostly within the same alignment.

The Design/Build delivery method will utilize a qualified and experienced team of both a designer and constructor working together in partnership to ensure this pipeline project is delivered in a manner that meets all the City's requirements. The Design/Build team selection process incorporated a group of professionals from various City Departments and another Water District in identifying and selecting a Design/Build Team that provided the best value, considering both design and construction qualifications and cost in executing this project. A Request For Qualifications package was issued on June 23, 2000 to interested Design/Build teams; three teams out of nine were short listed and were issued a Request for Proposal for the project on December 22, 2000. The three teams were interviewed on January 16, 2001 and Archer Western Construction/ Winzler & Kelly team was selected as the Design/Build team for this project on February 2, 2001. A Mitigated Negative Declaration (MND) has been prepared in accordance with California Environmental Quality Act Guidelines. The MND contains a Mitigation Monitoring and Reporting Program (MMRP) with conditions to mitigate impacts related to geology/soils, hydrology/water quality, historical, biological and paleontological resources, noise, traffic and air quality. As a result of the project's encroachment into Environmentally Sensitive Lands, a Site Development Permit (SDP) and Resolution have also been prepared in accordance with the City of San Diego Land Development Code. The MMRP has been incorporated into a SDP No. LDR 40-0901. The SDP will be considered at a separate Hearing Officer hearing.

FISCAL IMPACT:

Total cost for the Water Pipeline No.2 is \$21,652,752 of which \$1,912,885 was previously authorized. Total cost for the Reclaimed Water Pipeline (between Carroll Canyon and Twin Trails) is \$11,532,547 of which \$169,921 was previously authorized. In addition \$629,604 will be authorized for these projects from the Annual Allocation for Pooled Contingency.

Loveland/Gardner/OK

Aud. Cert. 2101095.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
ORDINANCES TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:

ITEM-200: Two actions related to City Administration Building Fire Protection and Life Safety Improvement Project.

(See City Manager Report CMR-01-082. Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the following resolution in Subitem B:

Subitem-A: (O-2001-138)

Introduction of an Ordinance amending Chapter V of the San Diego Municipal Code by amending Article 5, Division 10, Section 55.1003.2.11.8, pertaining to Fire Protection and Prevention, to extend the required compliance date for sprinkler retrofits to January 1, 2004.

Subitem-B: (R-2001-1340)

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2001 Capital Improvement Program budget by adding CIP-37-900.0, City Administration Building Fire Protection and Life Safety Improvement Project;

Authorizing the appropriation and expenditure of an amount not to exceed \$200,000 from the Capital Outlay - Sales Tax Fund No. 30245, for CIP-37-900.0, City Administration Building Fire Protection and Life Safety Improvement Project;

Authorizing the appropriation and expenditure of an amount not to exceed \$998,000 and \$1,861,074 from the Capital Outlay - Sales Tax Fund No. 30245, for CIP-37-900.0, City Administration Building Fire Protection and Life Safety Improvement Project in Fiscal Year 2002 and 2003, contingent upon receipt of the funds and contingent upon adoption of the Fiscal Year 2002 and 2003/Annual Budget and Annual Appropriation Ordinance;

Authorizing the City Manager to award a Design/Build Contract to the design/build team for the installation of the City Administration Building, Fire Protection and Life Safety Improvement Project;

Authorizing the City Manager to establish contract funding phases with the Design/Build Team (DBT), and execute a contract with the DBT, providing that the City Auditor first furnishes a certificate demonstrating that the funds necessary for expenditure under the contract are, or will be, on deposit in the City Treasury;

Authorizing the Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Aud. Cert. 2101103.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-201: State Route 56.

(Carmel Valley, Rancho Penasquitos, Del Mar Mesa, Torrey Highlands, Pacific Highlands Ranch and Black Mountain Ranch Community Areas. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1396 Cor. Copy)

Authorizing the City Manager to request advance funding from SANDAG through the commercial paper program in an amount not to exceed \$2,116,559;

Authorizing the City Manager to execute any necessary documents relating to the receipt of the funds from SANDAG;

Declaring that the City will be responsible for paying its share of interest and administrative costs for the TransNet commercial paper program, that these costs will be deducted from normal TransNet payments, and that setting the repayment of these funds on schedule will be the first priority use of future TransNet revenues;

Declaring that the City will repay to SANDAG the principal amount of \$2,116,559 prior to Fiscal Year 2007;

Authorizing the City Auditor and Comptroller to increase the FY 2001 Capital Improvements Program budget to increase appropriation by \$5,113,920 in CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road," by appropriating \$2,997,361 from Fund No. 10515 and \$2,116,559 from TransNet Commercial Paper Fund 30306;

Authorizing the City to expend \$4,382,818 from CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road," of which \$2,266,259 is from Fund 10515 and \$2,116,559 from Fund 30306 - TransNet Commercial Paper for the purposes of funding mitigation requirements, right-of-way acquisition, and other expenses to accommodate State Route 56 being graded as a six-lane facility at this time;

Authorizing the City Auditor and Comptroller to pay \$302,243 from CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road," to Habitat Acquisition Fund 10571;

Authorizing the City Manager to execute an Agreement with Dudek and Associates,

Inc., in an amount not to exceed \$212,416 for professional wetland/mitigation/restoration design and permitting services for CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road";

Authorizing the City Manager to execute an Eighth Amendment to Agreement with Boyle Engineering Corporation, in an amount not to exceed \$525,846 for professional engineering services, of which \$7,160 is from Water Fund 41500, CIP-70-954.0, Black Mountain Ranch Reclaimed Water Pipeline, and \$518,686 is from CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road";

Authorizing the City to expend \$162,760.11 from Water Fund 41500, CIP-70-954.0, Black Mountain Ranch Reclaimed Water Pipeline, for related in-house costs and construction of CIP-52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road";

Declaring that the Fiscal Year 2001 Capital Improvements Program budget is amended by adding CIP-52-703.0, "State Route 56 - Debt Service";

Directing the City Manager to process a future amendment to the Del Mar Mesa Financing Plan for the repayment of FBA funds of \$1,030,000 from CIP-52-703.0, "State Route 56 - Debt Service," Fund 79010, for purposes of reimbursing TransNet \$230,000 in Fiscal Year 2003 and \$800,000 in Fiscal Year 2005, or at the earliest possible time thereafter; and the City Auditor and Comptroller is authorized to appropriate and expend for the repayment of \$1,030,000 from CIP-52-703.0, "State Route 56-Debt Service," Fund 79010, contingent upon the City Auditor certifying that funds are available;

Directing the City Manager to process a future amendment to Torrey Highlands Financing Plan for the repayment of FBA funds of \$431,673 from CIP-52-703.0, "State Route 56 - Debt Service," Fund 39069, for purposes of reimbursing TransNet in Fiscal Year 2004, or at the earliest possible time thereafter; and authorizing the City Auditor and Comptroller to appropriate and expend for the repayment of \$431,673 from CIP-52-703.0, "State Route 56-Debt Service," Fund 39069, contingent upon the City Auditor certifying that funds are available;

Directing the City Manager to process a future amendment to the Black Mountain Ranch Financing Plan for the repayment of FBA funds of \$544,340 from CIP-52-703.0, "State Route 56-Debt Service," Fund 79012, for purposes of reimbursing TransNet in the Fiscal Year 2005, or at the earliest possible time thereafter; authorizing the City Auditor and Comptroller to appropriate and expend for the repayment of \$544,340 from CIP-52-703.0, "State Route 56-Debt Service," Fund 79012, contingent upon the City Auditor certifying that funds are available;

Directing the City Manager to process a future amendment to the Pacific Highlands Ranch Financing Plan for the repayment of FBA funds of \$486,365 from CIP-52-703.0, "State Route 56 - Debt Service," Fund 79011, for purposes of reimbursing TransNet in the Fiscal Year 2005, or at the earliest possible time thereafter; authorizing the City Auditor and Comptroller to appropriate and expend for the

repayment of \$486,365 from CIP-52-703.0, "State Route 56-Debt Service," Fund 79011, contingent upon the City Auditor certifying that funds are available;

Directing the City Manager to process future amendments to the respective financing plans for the project entitled "Widening of State Route 56 to Six Lanes" in the Torrey Highlands Financing Plan such that \$5,468,327 is programmed in Fiscal Year 2009; in the Black Mountain Ranch Financing Plan such that \$7,555,660 is programmed in Fiscal Year 2010; and in the Pacific Highlands Financing Plan such that \$7,213,635 is programmed in Fiscal Year 2013.

CITY MANAGER SUPPORTING INFORMATION:

The construction of State Route 56 - Carmel Valley to Black Mountain Road (SR-56) is a high priority transportation project which will provide a critical east/west link in the northern part of the City, connecting Interstates 5 and 15. The project is jointly funded by the City, County, State of California, and SANDAG.

While the project will initially provide a four lane freeway facility, it was decided by the SR-56 Policy Committee in 1997 to acquire the right-of-way, grade and mitigate for the six lane facility which will ultimately be needed. The reason for this decision is that it would be significantly more expensive to perform these functions for a widening project at a later date as opposed to accomplishing it initially. This has created the need for \$5.1 million to fulfill mitigation requirements for the wider construction area. Approximately \$3.0 million is available from a SR-56 Participation Fee created by an Agreement with a developer which leaves a need for \$2.1 million.

The future widening to six lanes is budgeted in the Facilities Financing Plans for Pacific Highlands Ranch, Torrey Highlands, Black Mountain Ranch and Del Mar Mesa. When these adjacent communities are developed in the near future, Facilities Benefit Assessment (FBA) fees from them will be budgeted for this expansion. However, since FBA fees will not be collected until a later date, the \$2.1 million needed can be funded through the issuance of commercial paper. The widening project was estimated some years ago as a \$29 million project and is programmed in these financing plans for the years 2003 through 2013. A recent, more detailed estimate of this project indicates that \$23 million is appropriate given that the right-of-way, grading, and mitigation activities are being accomplished more efficiently with the current project.

Since the current SR-56 project is proposed to grade, purchase right-of-way, and mitigate for the future expansion to six lanes, it is necessary to re-program a portion of the funding for the expansion to the current year.

It is therefore recommended to program and utilize TransNet commercial paper funding for the aforementioned purpose with the provision that, at a future date the financing plans will be amended by City Council Resolution, and that FBA fees from the affected communities may reimburse TransNet in the years 2003 through 2005. In addition to the above issue, other actions include approving consultant agreements for work including the aforementioned project mitigation and the Water Department funding a reclaimed water pipeline that is part of the project.

FISCAL IMPACT:

These actions provide for an advancement of \$2,116,599 of TransNet Commercial Paper funding with the provision that FBA from the affected communities will reimburse TransNet provided the financing plan amendments are approved by Council resolution at a future date. If the plans are not approved or sufficient FBA revenues are not received TransNet will need to reduce the TransNet Program by the amount not repaid.

Loveland/Belock/PB

Aud. Cert. 2101097.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-202: TransNet Commercial Paper.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1494)

Authorizing the City Manager to request advance funding from SANDAG through the TransNet commercial paper program in an amount not to exceed \$7,000,000 for the projects listed in Attachment A;

Authorizing the City Manager to execute any necessary documents relating to the receipt of the funds from SANDAG;

Declaring that the City acknowledges that it is responsible for paying its proportionate share of the annual interest and administrative cost of the commercial paper program, which will be deducted from the City's monthly TransNet Sales Tax allocations prior to remittance to the City, based on the ratio of the amount of financing provided to the City total commercial paper outstanding each fiscal year;

Authorizing the City Manager to repay SANDAG the principal amount of \$7,000,000 according to the schedule on Attachment A;

Declaring that the first priority use of the City's annual allocation of TransNet revenues shall be payment of the principal amount borrowed according to the schedule on Attachment A.

CITY MANAGER SUPPORTING INFORMATION:

As part of its Fiscal Year 2001 Capital Improvements Program (CIP) Budget, the City Council approved \$73,442,517 in capital improvement projects. The funding approved was \$25,510,380 in TransNet Sales Tax (cash) and \$47,932,137 in TransNet Commercial Paper (commercial paper). Commercial paper is a short-term borrowing tool used to raise cash needed to cover cash flow

deficits and is an option available through SANDAG.

In an attempt to minimize the issuance of commercial paper, staff utilizes a cash management system which identifies projects that require immediate financing and also identifies available cash. Cash is then transferred to commercial paper funded projects that require immediate financing. To maintain the balance of appropriations within the CIP budget, an equal amount of commercial paper is then moved to the cash funded project. This process continues throughout the year which reduces the use of debt, and maximizes the use of available cash. While the cash management effort has enabled us to postpone issuing commercial paper, it is estimated that approximately \$7.0 million in commercial paper will be needed this fiscal year to fulfill our short-term financing needs. The commercial paper funded projects listed on Attachment "A" received TransNet cash from the operating and maintenance budget. This action will reimburse the operating and maintenance budget to cover costs incurred at year end. Therefore, it is recommended that the City request advance funding from SANDAG through their commercial paper program to fund the remaining Fiscal Year 2001 project requirements. The commercial paper will be needed for the capital improvement projects listed on Attachment "A". Repayment of the principal amount for each project is identified on Attachment "A" and will be the first priority use of future TransNet revenue in each fiscal year.

FISCAL IMPACT:

The annual debt service of Commercial Paper is approximately \$46,500 Per \$1.0 million and is available in Fund 30300, CIP-52-683.0, Debt Service for Commercial Paper Funded Projects. The principal amount will be repaid according to the schedule on Attachment "A".

Loveland/Belock/CM

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-203: Rehearing of Debarment of Southern California Underground Contractors, Inc. Its Divisions and Organizational Elements, its Affiliates, James Craig Jackson, DOB 11-19-1961 and George Rogers Frost, DOB 4-6-1945.

(See City Manager Report CMR-01-068.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1551)

Adopting the "Findings Regarding the Proposed Debarment of SoCal., its divisions, organizational elements, its affiliates and Jim Craig Jackson and George Rogers Frost" pursuant to San Diego Municipal Code Section 22.0801, et seq., and after reviewing all evidence and testimony;

Debarring SoCal permanently as a consequence of the Findings set forth in Exhibit A and

all evidence and testimony presented.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-204: Transfer of State Routes 209 and 274 to the City.

(See City Manager Report CMR-01-098. Midway, Peninsula, Clairemont Mesa, Kearny Mesa, Normal Heights, Kensington, and City Heights Community Areas. Districts-2, 3, 5, and 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1549)

Authorizing the City Manager to enter into a Cooperative Agreement with the State of California to accept State Route 209 from its junction with Interstates 5 and 8 at Camino del Rio West to Cabrillo National Monument, and the transfer of State Route 274 (Balboa Avenue) from Interstate 5 to Interstate 15;

Authorizing the City Manager to accept the transfer of seven excess parcels in the State Route 15/40th Street corridor from the State of California.

**ADOPTION AGENDA, HEARINGS
NOTICED HEARINGS:**

ITEM-330: Fay Avenue (from West Muirlands Drive to Nautilus Street) Underground Utility District.

(La Jolla Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1375)

Establishing the Fay Avenue (from West Muirlands Drive to Nautilus Street) Underground Utility District.

CITY MANAGER SUPPORTING INFORMATION:

The proposed district is identified in CIP-37-028.0, "Annual Allocation - Undergrounding of City Utilities", and will underground the overhead utility facilities in the Fay Avenue (from West

Muirlands Drive to Nautilus Street) Underground Utility District. The formation of this district will require the affected property owners to underground the utilities which provide service to their property prior to removal of the overhead utilities in the street. Council Policy 800-2 provides for the use of California Public Utilities Commission Case 8209 funds to assist in financing the conversion of private electrical service laterals in all underground utility districts. Funding consists of a lump-sum reimbursement based upon the length of their electrical service trench for electrical and conduit up to a maximum of \$3,500 per electric service lateral.

Reimbursements will also include the cost of modifications to the electrical service box, up to a maximum of \$1,000 for residential conversions and \$1,500 for commercial conversions, when such modifications are needed to receive underground service. Typical costs for service box modifications range from \$300 - \$500. In most cases, the reimbursement is sufficient to cover the entire cost for the trenching, conduit and any needed electric service box modifications.

FISCAL IMPACT:

SDG&E Cost: The construction cost of \$120,000 will be financed through the use of San Diego Gas and Electric Company's Annual Allocation Funds as directed by the Public Utilities Commission (Case 8209). The fiscal impact to the City is for the administration and street light replacement. Cost estimated at \$1,000. Funding is available in CIP-37-028.0, Undergrounding of City Utilities.

Loveland/Belock/PB

Aud. Cert. 2101081.

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-331: Fanuel Street Rezone and Local Coastal Program Amendment.

(Continued from the meeting of April 17, 2001, Item 331, at the request of the Council, to allow staff time to work out a solution with the applicant, owner of the hair salon; continued from the meeting of May 8, 2001, Item 330, at the request of the City Manager, for further review.)

Matter of approving, conditionally approving, modifying or denying a request to rezone a 0.29-acre property located at 4527, 4533, and 4545 Fanuel Street from CO-1-2 (Commercial-Office) to CC-3-4 (Commercial-Community).

The proposed rezone is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on this rezone will be with the California Coastal Commission. The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

(Rezone No. 40-0266. Pacific Beach Community Plan Area. District-2.)

NOTE: The public testimony portion of the hearing is closed unless new information is presented. No public testimony taken on 5/8/2001.

CITY MANAGER'S RECOMMENDATION:

Introduce the Ordinance:

(O-2001-128)

Introduction of an Ordinance changing 0.29 acres located at 4527 and 4545-4547 Fanuel Street, within the Pacific Beach Community Plan area, from the CO-1-2 (Commercial-Office) Zone into the CC-3-4 (Commercial-Community) Zone, as defined by San Diego Municipal Code Section 131.0507; and repealing Ordinance O-10364 (New Series), adopted August 13, 1970, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-1 to approve; was opposition.

Ayes: Steele, Skorepa, Brown, Stryker, Garcia

Nays: Anderson

The Pacific Beach Community Planning Group has recommended denial of the proposed rezone.

CITY MANAGER SUPPORTING INFORMATION:

The project site is a 0.29-acre property located at the southeast corner of Fanuel Street and Felspar Street, within Pacific Beach. The property is developed with three existing commercial buildings, parking, and landscaping. The buildings are currently occupied by a dentist office, a motorcycle sales and service shop, a hair salon, and one 2-bedroom apartment unit upstairs.

The property is currently zoned CO-1-2 (Commercial-Office). This zone allows a mix of office and residential uses, but does not allow commercial services such as the hair salon, nor does it allow vehicle sales and service such as the motorcycle shop. The dentist office is an allowed use.

In September of 1999, the City's Code Compliance Department investigated the site in response to complaints from the neighborhood. After inspecting the site, Code Compliance determined that both the hair salon and motorcycle shop uses were not permitted in the CO-1-2 zone, and were thus in violation of the City's Municipal Code. The Code Enforcement Case against the property has been held in abeyance to allow the property owner to seek City Council approval of a rezone that would permit both the hair salon and motorcycle shop to continue to operate on the premises.

In April of 2000, the owner submitted to the City a rezone application requesting the CC-1-1 (Commercial-Regional) zone. This zone would allow a wide variety of retail and commercial uses, including vehicle and vehicle equipment sales and service (motorcycle shop).

On July 24, 2000, the Pacific Beach Community Planning Committee took formal action on the Fanuel Rezone proposal from CO-1-2 to CC-1-1 and voted (8-1-5) to recommend denial of the rezone request. The committee's action was based primarily on public testimony and opposition provided by residents in the surrounding neighborhood. Most of the complaints centered around the noise and vibration generated or caused by the existing motorcycle shop, including noise impacts associated with motorcycle repair activities (dynamometer), motorcycle noise from customers arriving and leaving the property, and extraneous motorcycle-related activities on the site (parties and road rallies).

Based primarily on opposition from the planning group and surrounding neighbors, the applicant agreed to revise the rezone application to request the CC-3-4 zone, which is a community commercial zone intended to accommodate development with a pedestrian orientation. The CC-3-4 zone prohibits vehicle and vehicle equipment sales and service. Therefore, the sales, rental, service, repair, or maintenance of motorcycles or motorcycle equipment would not be permitted on the property. The CC-3-4 zone would, however, allow the hair salon to continue to operate.

On November 27, 2000, the applicant presented the revised rezone request to the Pacific Beach Community Planning Committee. Before voting on the revised rezone request, the Planning Committee chair determined that the committee would have to reconsider and rescind their previous vote (by a two-thirds majority). That motion to rescind their previous vote failed, and no further action was taken by the Committee on the requested CC-3-4 zone.

On December 14, 2000, this proposed rezone request was considered by the Planning Commission. During that hearing, considerable concern was expressed by neighbors regarding several uses permitted under the proposed CC-3-4 zone.

In an effort to prohibit certain uses permitted by the proposed zone but deemed inappropriate by neighbors, the applicant volunteered to restrict uses through a recorded deed restriction. The Planning Commission hearing was continued in order to provide the applicant the opportunity to both record the deed restriction, and allow the Pacific Beach Community Planning Committee to review and consider the deed restriction. On January 22, 2001, the Pacific Beach Community Planning Committee rejected the rezone request and deed restriction.

Finally, on February 15, 2001, the Planning Commission approved the proposed rezone (without the deed restriction).

FISCAL IMPACT:

None.

LEGAL DESCRIPTION:

The 0.29 acres located at 4527 and 4545-4547 Fanuel Street, as shown on Zone Map Drawing No. B-4147, and is more particularly described as Parcels 1 and 2 of Parcel Map No. 00397.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15060(c)(2).

PUBLIC NOTICE:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-350: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

South Creek Parcels 35-48 Unit No. 11 and 12

COMMUNITY AREA

Sabre Springs

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Planning and Development Review or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEMS PULLED FROM CONSENT AGENDA

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: April 9, 2001 REPORT NO. 01-068

ATTENTION: Honorable Mayor and City Council
Docket of May 22, 2001

SUBJECT: Proposed Debarment of Southern California Underground Contractors, Inc., its divisions and organizational elements, its Affiliates, James Craig Jackson, Dob: 11-19-61, and George Rogers Frost, Dob: 4-6-45. [These individuals, the corporate entity and its sub-parts will hereinafter be referred to as "SoCal" for convenience and clarification.]

SUMMARY

Issue - Should the City Council permanently debar SoCal under San Diego Municipal Code sections 22.0801 et seq.?

Manager's Recommendation - Adopt a resolution permanently debarring SoCal and include supporting findings of fact establishing that SoCal engaged in, including but not limited to, a pattern of willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance while performing City public works contracts. Permanently debar SoCal under San Diego Municipal Code sections 22.0801 et seq.

Fiscal Impact - None.

Reference - City Manager Report No. 00-132.

BACKGROUND

This rehearing is before the City Council to determine whether or not SoCal should be permanently debarred. On June 26, 2000, after a noticed public hearing, SoCal was debarred by the San Diego City Council for egregious conduct.

Generally, SoCal was caught stealing water on no less than five occasions. SoCal's representatives violated traffic control at least sixteen times, on at least one occasion a police officer was forced to issue a citation in order to secure their compliance. Two of those traffic control violations directly involved deceit by SoCal. First, SoCal staff modified an approved traffic control permit by adding street names of areas which were not approved and for which no permit was issued. Second, SoCal admittedly falsified a traffic control drawing by essentially "cutting and pasting" an approval stamp from an approved drawing onto the non-approved drawing. This traffic control drawing was modified to justify crew work in a public right-of-way without permission. Additionally, SoCal misrepresented that they replaced sewer laterals which they did not. Further, SoCal filed false claims inflating invoices for extra work of staff labor rates and equipment rates to obtain undue monies from the City. SoCal's egregious business practices endangered the public health, safety and welfare of the citizenry.

DISCUSSION

A. Procedural History.

SoCal's business practices compelled the City Council to take swift and effective action permanently debarring them from committing any further willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance. The timeline that led to the debarment is described below:

On June 7, 2000, City staff contacted SoCal and informed them of the City Manager's intent to recommend debarment to the City Council.

On June 8, 2000, City staff met with SoCal, and provided them a detailed fact sheet of their violations and evidence upon which the City Manager's proposal was based.

On June 13, 2000, City staff met, at SoCal's request, with SoCal to allow them an opportunity to respond to the allegations. SoCal admitted most of the allegations as true. However, SoCal contended that when violations were brought to their attention, SoCal corrected them. Therefore, in SoCal's opinion debarment was unfair. City staff was not satisfied that SoCal understood the gravity of their egregious business practices particularly when their "corrections" were often corrections of behavior for which they had previously been admonished (for example, as described above, they were caught stealing water at least five times, and violated

traffic control at least sixteen times). City staff believed that SoCal would continue to perform unacceptable practices and they only modify their behavior after they were “caught.” Therefore, City staff proceeded to City Council with a recommendation for permanent debarment.

Prior to the debarment hearing, SoCal filed documents to the City Council for review and consideration. In their documents, SoCal requested a sixty-day continuance of the matter. At the debarment hearing, in light of the gravity of SoCal’s actions and the need for expeditious action, the City Council provided SoCal a one week continuance.

On June 22, and 23, 2000, SoCal deposed seven City inspectors regarding the facts underlying the debarment.

On June 23, 2000, the City made available to SoCal for review and copying all project files for the contracts on which the debarment was based. SoCal reviewed the files and made copies.

The debarment was heard on June 26, 2000, by the City Council. Staff gave a ten minute presentation and SoCal was given ten minutes to present their case. After considering all evidence presented, the City Council debarred SoCal.

B. Procedural Due Process

SoCal, once debarred, filed two lawsuits. One was a lawsuit for damages allegedly resulting from the debarment. The second was an Administrative Writ. In the Writ SoCal challenged the procedural due process of the debarment. SoCal argued that they were not provided adequate notice, specifically, the requested sixty days, and an adequate opportunity to be heard. The Honorable Superior Court Judge Amos found that SoCal was not provided adequate time to prepare a defense of the debarment and therefore was denied due process. The court remanded the matter to this City Council for a rehearing of the debarment.

C. Factual Background.

1. Misuse of Water:

a. On December 17, 1999, SoCal was observed filling a water truck from a City of San Diego fire hydrant without a meter as required by Section 7-15 of the Sewer Group Job 647 construction contract, City of San Diego Supplemental Amendments to the Standard Specifications for Public Works. The City notified SoCal that a properly registered, functional water meter was required.

b. Again on February 15, 2000, SoCal was observed filling a water truck from a City fire hydrant without a meter as required by the Water and Sewer Group Job 464A construction contract. On that date, City staff verbally notified SoCal, and again on February 18, 2000, gave written notice to SoCal of the contract requirement that a water meter was necessary.

c. On Water and Sewer Group Job 464A on April 13, 2000, SoCal used an inoperable water meter, Serial No. 91004201, which was confiscated by City staff and returned to the City Water Department. The Water Department discovered that this meter had been registered to SoCal, but SoCal had reported it lost or stolen three months earlier.

d. On April 28, 2000, SoCal used an inoperable water meter, Serial No. 88537360, on Water and Sewer Group Job 530A by connecting it to a City of San Diego fire hydrant. This meter also had been reported lost or stolen by SoCal, and it was overdue for a reading. City staff again advised SoCal both verbally and in writing of the contract requirement that a water meter must be properly registered.

e. On May 3, 2000, City staff checked the water meter SoCal was using on Sewer Group Job 636 and found that the meter, Serial No. 89542881, also had been reported lost or stolen by SoCal in December 1999.

f. After numerous and repeated notices from City staff of violations relating to water meters, according to SoCal, SoCal rented five new water meters from the City Water Department in late April/early May 2000. However, after renting these new water meters, City staff observed them again using water without a meter to acquire water for their construction work.

2. Traffic Control Permits:

a. On Water and Sewer Group Job 464A, SoCal began work in the public right-of-way without a required traffic control permit. SoCal disregarded three written violation notices dated January 12, 2000, January 31, 2000 and February 2, 2000, and continued to work without a traffic control permit thereby creating a threat to public health and safety.

b. On Water and Sewer Group Job 496, the City issued SoCal a traffic control violation notice on February 3, 2000, because SoCal failed to: 1) install required traffic control devices which warn motorists of construction activities and guide them safely through a construction zone; 2) provide continuous access for emergency vehicles and local traffic as required; 3) remove construction debris from the right-of-way; and 4) cease work and exit the right-of-way during peak traffic hours as required by their traffic control permit.

c. On Water and Sewer Group Job 605, SoCal failed to obtain a traffic control permit and on several occasions failed to implement proper traffic control. City staff issued

written stop work or violation notices after observing this behavior on January 27, 2000, February 16, 2000, February 25, 2000, March 2, 2000, March 17, 2000 and May 23, 2000. On April 3, 2000, SoCal was cited by the San Diego Police Department for performing work in the right-of-way without a valid traffic control permit.

d. While performing work on Water and Sewer Group Job 464A, SoCal presented a traffic control permit to City staff. After further investigation by staff, it was later determined that SoCal added a street to the previously approved traffic control permit, so it appeared to cover their ongoing work.

e. Also on Water and Sewer Group Job 464A, SoCal presented another traffic control drawing which had been fabricated in order to convince City staff to allow SoCal to continue working in the right-of-way. On the traffic control drawing presented by SoCal, SoCal had cut an approval stamp from a different, approved drawing and pasted it on an unapproved drawing. SoCal acknowledged to City staff that, in fact, they had modified the unapproved drawing to make it appear valid.

3. Other Inadequate Contract Performance

a. In March 2000, SoCal provided late notice to residents that construction work would require that the residents avoid parking on the street on certain dates. The late notice SoCal provided failed to state necessary parking restrictions to prevent citizens from parking in the construction areas. As a result, one citizen's car was improperly towed at their expense.

b. SoCal committed all of the following: on March 30, 2000, SoCal failed to adhere to City staff instructions to avoid impacting a concrete encased high voltage electric conduit; on March 31, 2000, SoCal told City staff that measurements revealed that work could be performed without impacting the concrete encased electric conduit. However, despite their representations, SoCal began chipping away at the concrete encased conduit with a large hydraulic chipping device attached to a backhoe. SoCal's chipping at the concrete damaged the electrical conduit and caused a power outage in the community. In addition, SoCal billed the City for additional work caused by the power outage.

c. On Sewer Group 647, SoCal constructed new portions of the sidewalk and other improvements thereby implying the work had been completed and that they had completed installation of sewer laterals. SoCal represented to City staff that the laterals had been replaced. Suspicious in light of SoCal's conduct in other regards, the City required SoCal to excavate to confirm that the laterals had been replaced. Excavation of one of the laterals revealed that SoCal did not replace the dilapidated sewer laterals. Before City staff could observe excavations of the other sewer laterals that were allegedly replaced, (the inspection was scheduled for December 20,

1999), SoCal performed unauthorized work over the weekend of December 18, 1999, and replaced those other sewer laterals which SoCal claimed to have replaced.

4. False Claims for Extra Work:

a. SoCal submitted Daily Extra Work Reports [DEWR] claiming inflated labor compensation rates. On Water and Sewer Group Jobs 464A, 514, 530A and Sewer Group Job 636, the construction contracts section 3-3.2.2 require SoCal to charge the City its actual labor costs. SoCal charged the City \$28.00 per hour for labor when SoCal's actual costs were less than \$11.00 per hour, and only after being confronted and receiving several written requests by the City did SoCal finally submit actual labor rates.

b. SoCal submitted several DEWRs to the City as a result of extra work performed by SoCal on Water & Sewer Group 464A. While evaluating these DEWRs, City staff noted a discrepancy regarding the model number and hourly rate for a backhoe. SoCal's DEWRs charged the hourly rate for a JD 510, \$22.67, which is greater than the hourly rate for a JD 310D, \$16.52. City staff took photographs of the backhoe in question which show both of the following: 1) the "3" in the standard 310D sticker on the side of the backhoe was removed and replaced with a "5," to make it look like a 510, and 2) inside the hood where the maintenance for this type of backhoe is located, the maintenance record indicated the backhoe was a 310D.

c. On Sewer & Water Group 605, SoCal filed three workers' compensation claims against the City Water Department's Owner Controlled Insurance Program [OCIP]. Through independent investigation by the OCIP Risk Manager, Risk Management discovered that these workers were not assigned to the site on a full time basis and/or that the workers' injuries did not occur while performing work at the site as alleged by SoCal. In one of the cases, work on the job had been shut down at the date and time during which the injury was alleged to have occurred.

D. Existing Contracts.

At the time of the debarment, SoCal was performing work on ten existing contracts. In that regard, the City Council directed that SoCal be allowed to complete those contracts. To date, SoCal has completed six of those contracts. The status of the remaining four contracts is:

<u>PROJECT</u>	<u>COMMUNITY</u>	<u>STATUS</u>
Sewer & Water Group 514	North Park	95% complete
Water & Sewer Group 530A	Old Town	95% complete
Sewer Group 630	Grant Hill/Stockton	99% complete
Sewer Group 647	Talmadge	99% complete

CONCLUSION

SoCal has repeatedly and flagrantly engaged in a pattern of willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance. These acts demonstrate a consistent and pervasive disregard for the public health, safety and welfare. The City's cost of construction management is significantly greater than for other contractors because of the need to constantly monitor their performance to prevent their deceptive conduct. It is in the City's best interests to permanently debar SoCal.

ALTERNATIVES

1. The City Council could alternatively debar SoCal for a period of three years. The grounds stated above for permanent debarment are more than sufficient to support a lesser debarment of three years. City staff does not recommend a three year debarment because the punishment would not correspond to the number and severity of the violations. In addition, expiration of time would not change SoCal's character from a corrupt contractor, to one of integrity. In order to ensure the safety of the citizenry, City staff will likely again encounter increased costs to closely monitor SoCal on future contracts.
2. Do not debar SoCal and allow future contracting with the City.

Respectfully Submitted,

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